

BEFORE THE
Federal Communications Commission

WASHINGTON, D.C. 20554

ORIGINAL

ORIGINAL
FILE

In the Matter of)
)
Amendment of Section 73.202(b))
Table of Allotments)
FM Broadcast Stations)
(Beverly Hills, Florida))

MM DOCKET NO. 92-195

RM-7146

RECEIVED

OCT 30 1992

To: Chief, Allocations Branch
Policy and Rules Division

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

**COUNTERPROPOSAL AND COMMENTS
OF HEART OF CITRUS, INC.**

Heart of Citrus, Inc. (HCI), permittee of WXLN-FM, Beverly Hills, Florida, pursuant to Rules 1.415 and 1.420, files this Counterproposal and Comments.¹ HCI filed a Petition for Rule-making on September 29, 1989, seeking to substitute Channel 246C3 for 246A at Beverly Hills in order to provide improved service. In response to that petition, the Commission issued a Notice of Proposed Rulemaking, __ FCC Rcd. __ (released September 8, 1992), ("NOPR") seeking comments on the proposal to amend the FM Table of Allotments as follows:

City	Present	Channel No.	Proposed
Beverly Hills, Florida	246A		246C3

All comments are to be filed by October 30, 1992 and reply comments by November 16, 1992.

¹ HCI completed construction of WXLN-FM in October 1992 and has a pending FCC Form 302 application for license to operate as a 6 kw equivalent Class A facility.

No. of Copies rec'd
List A B C D E

045

1.0 COUNTERPROPOSAL.

Further review and analysis has revealed that Channel 246C2 can be allocated to Beverly Hills, Florida in lieu of Channel 246C3 provided that Channel 300A is substituted for Channel 247A in Chiefland, Florida. Table A of the attached engineering statement demonstrates the Channel 300A substitution can be made in Chiefland, Florida in compliance with Commission spacing requirements. Table B of the attached engineering provides the requisite engineering study demonstrating that Channel 246C2 can be substituted for Channel 246A in Beverly Hills, Florida. The substitution contemplates a site restriction 15 kilometers south. HCI will, if ultimately awarded a construction permit for Channel 246C2 and as provided by Commission rules and policy, reimburse the Chiefland permittee for the reasonable and prudent costs attendant to a change in frequency. See Circleville, Ohio, 8 FCC2d 159 (1967); Marion, Mississippi, 4 FCC Rcd. 1528 (1989); Toledo, Oregon, 4 FCC Rcd. 7796 (1989).

In sum, HCI respectfully requests that the Commission approve a Class C2 upgrade at Beverly Hills as follows:

<u>City</u>	Channel No.	
	<u>Present</u>	<u>Proposed</u>
Beverly Hills, Florida	246A	246C2 ²
Chiefland, Florida	247A	300A

² Site restriction 15 kilometers south required.

2.0 COMMENTS IN SUPPORT OF NOPR.

In the alternative, HCI supports allocation of Channel 246C3 as initially requested in its Petition for Rulemaking. HCI incorporates by reference its Petition for Rulemaking filed September 29, 1989. It affirmatively states its present intention to apply for Channel 246C3 or 246C2 if allocated, and will promptly construct the station if authorized to do so.

WHEREFORE, HCI requests, in order of preference, that the Commission first allocate 246C2 to Beverly Hills, Florida or, secondly, allocate 246C3 to Beverly Hills, Florida.

Respectfully submitted,
HEART OF CITRUS, INC.

By A. Wray Fitch III
A. Wray Fitch III
Its Counsel

GAMMON & GRANGE, P.C.
8280 Greensboro Drive
Seventh Floor
McLean, VA 22102
(703) 761-5000

October 30, 1992

Engineering Statement

Page 1 of 7

This Engineering Statement was prepared on behalf of Heart of Citrus, Inc. ("Citrus") in support of Comments to its Rulemaking RM-7146 in Docket MM 92-195. In the rulemaking petition, Citrus proposed to serve the public interest by improving first local service at Beverly Hills, Florida with an upgrade from Channel 246A to 246C3. It should be noted that subsequent to filing the petition, Citrus promptly completed construction of the WXOF (FM) facility in October, 1992, and has pending a Form 302 application for station license as a 6 Kw equivalent Class A facility.

Further analysis revealed that Citrus could upgrade to Channel 246C2 provided the allotment (now a construction permit) at Chiefland, Florida were changed from Channel 247A to 300A. Table A presents the Channel 300A allocation study at Chiefland, Florida and shows this substitution can be completed consistent with Commission spacing requirements. Table B presents the proposed Channel 246C2 substitution at Beverly Hills.

We therefore respectfully request the Commission approve a Class C2 upgrade at Beverly Hills as follows:

Citrus Option 1:

<u>City, State</u>	<u>Present</u>	<u>Proposed</u>
Beverly Hills, FL	246A	246C2 L*
Chiefland, FL	247A	300A

*Site Restriction 15 kilometers south required.

Engineering Statement

Page 2 of 7

In the alternative, we request allotment of the original Class C3 request if the Commission is unable to approve Option 1 above:

Citrus Option 2:

<u>City, State</u>	<u>Present</u>	<u>Proposed</u>
Beverly Hills	246A	246C3 L**

**Site Restriction 13.4 kilometers south required.

STEPHAN M. KRAMER, P.E. AND ASSOCIATES
BROADCAST AND FAA CONSULTING ENGINEERS
10500 BIGHORN TRAIL, SUITE 100 MCKINNEY, TX 75070 (214) 548-8244

Engineering Statement

Page 3 of 7

Table A
Allocation Analysis
Channel 300A
October, 1992

Heart of Citrus, Inc.
WXOF (FM) Ch 246A Beverly Hills, FL

FM Study for: WLOHFM	FCC Database Date: 9/92	29-31-80
Location: CHIEFLAND, FL	Channel Class: A	82-53-11
Call City, State	Chan Class Freq kW Latitude Dist.	Required
Status Proponent	File Number HAAT Longitude Azm.	Clear (km)

Study For Channel 300 107.9 MHz

WLOHFM CHIEFLAND, FL	247 A	97.3	6.0	29-31-80	0.0	10
CP WHITE CONSTRUCTION CO	BMPH-910700IC	100	82-53-11	0.0	-10.0	
Use of 73.215 for short spacing requires: 10 -10.0						
WMGF MOUNT DORA, FL	299 C	107.7	100.	26-55-16	166.07	165
LIC METROPLEX COMMUNICATI	BLH-870526KB	483	01-19-09	113.0	+1.07	
WRRX MICANOPY, FL	247 C2	97.3		29-38-55	47.0	15
ADD GATOR BROADCASTING CO	RM-7091		0	82-25-30	71.0	+32.0
Site Restricted 21.1 km Northwest-Petition for Reconsideration						
NEW COLUMBIA, FL	298 A	107.5	.250	30-06-23	68.0	31
APP RANCH AND GROVE HOLDI	BPFX-910530MF	130	82-39-31	18.1	+37.0	

STEPHAN M. KRAMER, P.E. AND ASSOCIATES
BROADCAST AND FAA COUNSULTING ENGINEERS
10500 BIGHORN TRAIL, SUITE 100 MCKINNEY, TX 75070 (214) 548-8244

Engineering Statement

Page 4 of 7

Table B
Allocation Analysis
Channel 246C2
October, 1992

Heart of Citrus, Inc.

WXOF (FM) Ch 246A Beverly Hills, FL

FM Study for: TOLLEGEZ	FCC Database Date: 9/92	26-46-42
Location: BEVERLY HILLS, FL	Channel Class: C2	82-28-31
Call City, State	Chan Class Freq kW Latitude Dist.	Required
Status Proponent	File Number HAAT Longitude Azm.	Clear (km)

Study For Channel 246 97.1 MHz

WXOF	BEVERLY HILLS, FL	246 A	97.1	5.1	28-53-38	13.2	166
APP	HEART OF CITRUS, INC.	BMPH-920825IE	108	82-26-39	13.3	-152.8	
						Use of 73.215 for short spacing requires:	143 -129.8

WXOF	BEVERLY HILLS, FL	246 A	97.1	2.55	28-53-38	13.2	166
CP	HEART OF CITRUS, INC.	BPH-871119ME	108	82-26-39	13.3	-152.8	
						Use of 73.215 for short spacing requires:	143 -129.8

WLQHFH	CHIEFLAND, FL	247 A	97.3	6.0	29-31-00	91.1	106
CP	WHITE CONSTRUCTION CO	BMPH-910708IC	100	82-53-11	334.0	-14.7	
						Use of 73.215 for short spacing requires:	89 +2.1

WKQL	JACKSONVILLE, FL	245 C	96.9	96.	30-16-34	188.02	188
LIC	PROFESSIONAL BROADCAST	BLH-900420KA	309	81-33-53	27.8	+0.02	

WPCV	WINTER HAVEN, FL	248 C	97.5	100.	28-07-35	115.8	105
LIC	HALL COMMUNICATIONS,	BLH-850908KA	310	81-33-03	128.4	+10.8	

STEPHAN M. KRAMER, P.E. AND ASSOCIATES
 BROADCAST AND FAA CONSULTING ENGINEERS
 10500 BIGHORN TRAIL, SUITE 100 MCKINNEY, TX 75070 (214) 548-8244

Engineering Statement

Page 5 of 7

Table B, continued

FM Study for: TOLLEC2		FCC Database Date: 9/92		28-46-42			
Location: BEVERLY HILLS, FL		Channel Class: C2		82-28-31			
Call	City, State	Chan Class	Freq	KW	Latitude	Dist.	Required
Status	Proponent	File Number	HAAT	Longitude	Azm.	Clear (km)	

WRRX	MICANOPY, FL	249 A	97.7		29-32-08	85.3	55
DEL	GATOR BROADCASTING CO	RM-7091		0	82-19-17	10.1	+30.3
Petition for Reconsideration							
WRRX	MICANOPY, FL	249 A	97.7	2.60	29-32-08	85.3	55
CP	GATOR BROADCASTING CO	BPH-520612JR	151		82-19-17	10.1	+30.3
WRRX	MICANOPY, FL	249 A	97.7	3.2	29-32-08	85.3	55
LIC	GATOR BROADCASTING CO	BMLH-900109KD	93		82-19-17	10.1	+30.3
WHTD	ORLANDO, FL	243 C	96.5	100.	28-34-51	138.5	105
LIC	TK COMMUNICATIONS, IN	BLH-850513KL	487		81-04-32	98.8	+33.5

STEPHAN M. KRAMER, P.E. AND ASSOCIATES
BROADCAST AND FAA COUNSULTING ENGINEERS
10500 BIGHORN TRAIL, SUITE 100 MCKINNEY, TX 75070 (214) 548-8244

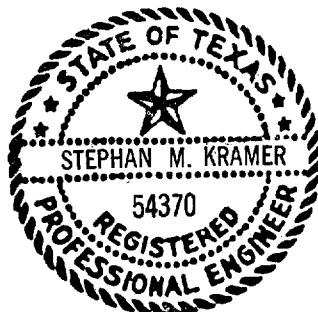
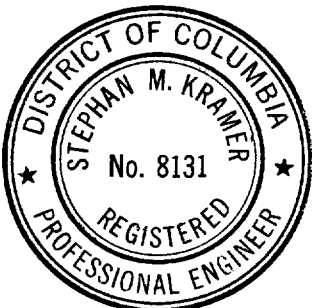
Engineering Affidavit

State of Texas)
) ss:
County of Collin)

Stephan M. Kramer, being duly sworn, deposes and states that he is a Registered Professional Engineer licensed in Texas and the District of Columbia, that he holds a B.S. Degree in Electrical Engineering from the University of Akron, and that he is a qualified and experienced Communications Consulting Engineer whose expert testimony and works are a matter of record with the Federal Communications Commission having received numerous application grants. He further states Heart of Citrus, Inc. retained the firm of Stephan M. Kramer, P.E. and Associates to prepare the attached Engineering Statement.

The deponent further indicates the Statement was prepared by him or under his direction and is true of his own knowledge, except as to statements made on information and belief and as to such statements, he believes them to be true.

This declaration is made under penalty of perjury under the laws of the United States.



Stephan M. Kramer 10-24-92

Stephan M. Kramer, P.E.
Texas P.E. # 54370
District of Columbia P.E. # 8131

STEPHAN M. KRAMER, P.E. AND ASSOCIATES
BROADCAST AND FAA COUNSULTING ENGINEERS
10500 BIGHORN TRAIL, SUITE 100 MCKINNEY, TX 75070 (214) 548-8244

Engineering Affidavit

State of Texas)
) ss:
County of Collin)

Brian L. Urban, being duly sworn, deposes and states that he is a Senior Project Engineer with the firm of Stephan M. Kramer, P.E. and Associated, holds certification as a Broadcast Technologist by the Society of Broadcast Engineers, that he is an experienced broadcast engineer with an FCC General Class Radiotelephone license, and that he has prepared numerous applications granted by the Commission under the direction of an experienced Registered Professional Engineer. He further states Heart of Citrus, Inc. retained the firm of Stephan M. Kramer, P.E, and Associates to prepare the attached Engineering Statement.

The deponent further indicates the Statement was prepared by him or under his direction and is true of his own knowledge, except as to statements made on information and belief and as to such statements, he believes them to be true.

This declaration is made under penalty of perjury under the laws of the United States.

Brian L. Urban 10-24-92

Brian L. Urban

SBE Certificate # 20456

FCC License # PG-9-3654

CERTIFICATE OF SERVICE

I, Tim Wineland, in the law offices of Gammon & Grange, do hereby certify that I have, on this 30th day of October 1992, mailed by first-class, postage prepaid, U.S. Mail, copies of the foregoing COUNTERPROPOSAL AND COMMENTS OF HEART OF CITRUS, INC. to the following:

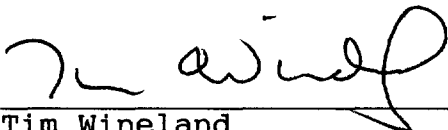
Michael C. Ruger, Chief
Allocations Branch, Policy & Rules Division
Federal Communications Commission
2025 M Street, N.W., Room 8318
Washington, DC 20554

Robert K. Hayne
Mass Media Bureau
Federal Communications Commission
2025 M Street, N.W.
Room 8337
Washington, DC 20554

Dennis F. Begley, Esq.
Matthew M. McCormick, Esq.
Reddy, Begley & Martin
1001 - 22nd Street, N.W.
Suite 350
Washington, DC 20037
(Counsel for Pasco Pinellas Broadcasting Co.)

David D. Oxenford, Jr., Esq.
Fisher, Wayland, Cooper & Leader
1255 - 23rd Street, N.W.
Suite 800
Washington, DC 20037
(Counsel for Gator Broadcasting Corporation)

Michael H. Bader, Esq.
David G. O'Neil, Esq.
Haley, Bader & Potts
4350 North Fairfax Drive
Suite 900
Arlington, VA 22203-1633
(Counsel for Sarasota FM, Inc.)



Tim Wineland